

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

VISTO CORPORATION,

No. C-04-0651 EMC

Plaintiff,

v.

**ORDER DENYING PLAINTIFF'S  
MOTION FOR LEAVE TO REQUEST  
RECONSIDERATION OF ORDER  
DENYING PRELIMINARY  
INJUNCTION**

SPROQIT TECHNOLOGIES, INC.

Defendant.

**(Docket No. 141)**

The motion came on for hearing on May 10, 2006. Having considered the papers filed in support of and in opposition to the motion and the argument of counsel, and good cause appearing therefor, the Court hereby **DENIES** the motion.

Plaintiff has not satisfied the criteria set forth in Civil Local Rule 7-9(b). It has not demonstrated a material difference in fact or law, the emergence of new material facts or a change of law, or a manifest failure by this Court to consider material facts or dispositive legal arguments that previously were presented to the Court. The Court, in its order denying the motion for preliminary injunction, recognized and applied the legal principles re-asserted by Plaintiff in their current motion. Plaintiff essentially seeks to reargue the original motion.

Moreover, even considering the papers filed in support of the instant motion, the Court concludes its initial decision was correct. Notwithstanding Plaintiff's assertion herein, Defendant raises a substantial question on the merits. Moreover, the Court's ultimate construction of the term


1 “workspace element” discussed in the Court’s prior order will be decided at the *Markman* hearing  
2 now scheduled within the next two months.

3 The denial of Plaintiff’s motion is without prejudice to its seeking reconsideration should it  
4 prevail on a material term at the *Markman* hearing in a manner which changes the Court’s  
5 assessment of likelihood of success.

6 This order disposes of Docket No. 141.

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8 IT IS SO ORDERED.

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10 Dated: May 12, 2006

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12 EDWARD M. CHEN  
13 United States Magistrate Judge  
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